BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

In the Matter of IP-Enabled Services	)	WC Docket No. 04-36
Petition of SBC Communications, Inc. for Forbearance from the Application of Title II Common Carrier Regulation to IP Platform Services	)	WC Docket No. 04-29

REPLY COMMENTS OF PAC-WEST TELECOMM, INC.

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TABLE OF CONTENTS

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I. INTRODUCTION AND SUMMARY

In its comments in this proceeding, Pac-West Telecomm, Inc. ("Pac-West") supported the Commission's policy of minimal regulation of IP-enabled services, particularly including Voice-over-Internet-Protocol ("VOIP") services.[1] In furtherance of that policy, Pac-West urged the Commission to assert its interstate jurisdiction over those services, without prejudice to the authority of the states to arbitrate interconnection agreements and prevent discriminatory conduct

[1] Pac-West's Comments addressed the regulatory issues posed by VOIP services rather than the broader, ill-defined universe of "IP-enabled services." These reply comments continue that emphasis on VOIP services. As the comments of Comcast Corporation and EarthLink, Inc. point out, the NPRM and the record in this proceeding do not support definite conclusions about the regulatory classification and treatment of all services, present and future, that encode and transmit data by means of the IP protocol. Comments of Comcast Corporation ("Comcast Comments") at 2-4; Comments of EarthLink, Inc. ("EarthLink Comments") at 19-23. Accordingly, the Commission should focus on clarifying the regulatory status of VOIP, which exists in well-defined variants and has been the subject of confusingly inconsistent action by the state commissions over a number of years. *See* Comments of Pac-West Telecomm, Inc. ("Pac-West Comments") at 8-10. All comments filed in this proceeding on May 28, 2004, will hereinafter be short cited.

by carriers that have market power over network-layer telecommunications facilities. More specifically, Pac-West pointed out that consumer interests will best be served if:

(1) only those VOIP-based service providers that also furnish end-user connections to a public network contribute to universal service support funds;

(2) the legacy access charge regime is not extended to any provider of VOIP-based information service;

(3) economic regulation and interconnection obligations are imposed only on those VOIP-based service providers that control last-mile, bottleneck transport or interconnection facilities;

(4) consumer protection requirements applicable to telecommunications carriers and services are not applied to VOIP-based information services; and

(5) E911 and disability access capabilities for VOIP services continue to develop by means of a market-driven process under the Commission's oversight, with reasonable targets for completion.

The comments in this proceeding provide overwhelming support for most of these recommendations and substantial support for all of them. Notably, comments from a broad range of industry segments support the Commission's jurisdiction over IP-enabled services. Many commenters also recommend caution in the extension of telecommunications carrier obligations, such as universal service contribution requirements and the legacy access charge regime, to IP-enabled service providers, and support continuing economic regulation only of those service providers that control bottleneck facilities at the network layer. Finally, the comments provide ample support for the view that E911 and disability access requirements should be applied to VOIP services through a process that is primarily market-driven rather than regulatory, and that consumer protection requirements applicable to common carriers should not be automatically extended to providers of information services.

Some commenters, however, urge the Commission to adopt policies that will discourage, rather than promote, a healthy competitive environment for IP-enabled services. Most notably,

the Regional Bell Operating Companies ("RBOCs") urge elimination of most Title II obligations to which they are subject, and effective repeal of the *Computer Inquiry* requirements, in all markets for broadband IP-enabled services. Other commenters support the imposition of costly, legacy obligations, including universal service and access charge requirements, on providers of emerging IP-enabled services; and deny the authority of the FCC to preempt inconsistent state regulation of those services.

As Pac-West explains further herein, these anti-competitive proposals are contrary to the Communications Act and the rules and policies of this Commission, and should be rejected.

II. THE COMMENTS GENERALLY SUPPORT ASSERTION OF FEDERAL JURISDICTION OVER IP-ENABLED SERVICES

Most commenters agree that VOIP and other IP-enabled services are inherently interstate, under both the end-to-end and mixed-use rationales, and therefore are subject to federal jurisdiction.[2] Many commenters also agree that state common-carriage regulation of these services must be preempted as inconsistent with this Commission's pro-competitive policies and contrary to section 230 of the Communications Act.[3] At the same time, the record supports a continuing role for the states in arbitrating interconnection agreements and policing anti-competitive behavior of incumbents.[4]

Those commenters that oppose interstate jurisdiction over IP-enabled services, or that argue against preemption of inconsistent state regulations, understate the reach of the Commission's interstate authority and fail to recognize the critical need for the Commission to

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[2] *See, e.g.*, BellSouth Comments at 10-14; Bend Broadband Comments at 13-19; SBC Comments at 25-33; Verizon Comments at 31-42; Qwest Comments at 25-36; Covad Comments at 17-22; Net2Phone Comments at 12-19; Voice on the Net (VON) Coalition Comments at 19-24; Microsoft Comments at 14-17.

[3] BellSouth Comments at 57.

[4] *See* Covad Comments at 18; Cox Comments at 13; Level 3 Comments at 14.

clarify, without further delay, the federal-state allocation of responsibility for regulation of VOIP services.

A. The Arguments Against Federal Jurisdiction And Preemption Are Without Merit

1. VOIP Services Are Jurisdictionally Interstate

Some commenters, including the California Public Utilities Commission and CenturyTel, Inc., contend that VOIP services are readily segregable into interstate and intrastate components and therefore are subject to state regulation, to the extent they serve identifiable end points within single states, under the Commission's "end-to-end" analysis.[5] As Pac-West pointed out in its initial comments, however, only those VOIP services, like AT&T's, that both originate and terminate at public switched telephone network ("PSTN") numbers associated with the calling and called parties' geographic locations can confidently be identified as "intrastate" under the end-to-end analysis. VOIP communications that are carried over the public Internet, link computers to computers or computers to phones, or use PSTN numbers not associated with customers' geographic locations do not have identifiable end points, and VOIP services of these kinds must be classified as interstate under the mixed-use rationale.[6]

Although partial "cures" for the inability to define the end points of VOIP communications have been suggested, mandating those approaches -- such as Internet geo-location technologies -- would increase the cost of VOIP services "merely to defeat federal jurisdiction over some subset of the communications those providers carry or facilitate."[7] Such

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[5] California PUC Comments at 34-38; CenturyTel Comments at 25-28.

[6] *See* Pac-West Comments at 11-12.

[7] *Id.* Some state commissions acknowledge that under the end-to-end analysis, state jurisdiction exists only over these VOIP services that have readily-identifiable, geographic end points. *See, e.g.,* Ohio PUC Comments at 25-26.

results cannot be squared with this Commission's deregulatory policy or section 230 of the Act, both of which require minimization of the regulatory cost of providing computer-based services.[8] Accordingly, the end-to-end rationale can oust federal jurisdiction only over "those rare cases in which a VOIP service has readily-identifiable geographic points of origination and termination."[9] All other VOIP services are jurisdictionally interstate and beyond the reach of state regulation.

2. Preemption Of Burdensome State Regulation Of VOIP Services Is Required By The Supremacy Clause

Even where a VOIP service includes identifiably intrastate communications that nominally are subject to state regulation, the Commission must exercise its preemption authority to ensure that those communications are not made the basis of state common-carrier regulation. The comments amply confirm that the needed preemption authority may be found in the Supremacy Clause of the U.S. Constitution and in the Communications Act.[10]

The Supremacy Clause rationale, as elaborated in the *Louisiana PSC* decision, is especially compelling. Under that test, the Commission may preempt state regulations as necessary to achieve a valid goal that is within the Commission's jurisdiction under the Communications Act, to the extent that the activities subject to regulation cannot be separated into interstate and intrastate components.[11] Unquestionably, the goal of benefiting consumers by promoting the deployment of VOIP service is valid and within this Commission's jurisdiction. Similarly, common carrier regulation, such as licensing, mandatory tariffing, and imposition of intrastate access charges will frustrate the achievement of that goal; and separation of most

[8] As the Electronic Frontier Foundation points out, geo-location technologies also can be used to undermine the privacy of VOIP subscribers. Electronic Frontier Foundation Comments at 7.

[9] Pac-West Comments at 12.

[10] AT&T Comments at 42-48; Vonage Comments at 14-22; Covad Comments at 19; Electronic Frontier Foundation Comments at 6-7.

VOIP services into interstate and intrastate components is, for reasons already discussed, neither necessary nor desirable.

The comments in this proceeding confirm the need for prompt assertion of the Commission's preemption authority. As several commenters point out, the ongoing campaign of state regulation, which has not abated during the pendency of this proceeding, threatens to discourage investment in this nascent industry.[12] The confusion caused by this ongoing process is exemplified by the magistrate judge's decision, entered earlier this month, to enjoin enforcement of New York State's decision to regulate Vonage as an intrastate telephone company. A hearing on the merits of that decision will not be held until January, while the uncertainty caused by those proceedings continues to hang over Vonage, other VOIP providers, and their investors. Other pending state proceedings, detailed in the comments of Pac-West and other parties, can only have a similarly depressing effect on the VOIP marketplace.

Some states, nonetheless, urge the Commission not to make any pronouncements concerning preemption at this time. Those state commissions argue that they can be relied upon to impose only non-burdensome economic regulations, or to confine themselves to health, safety and similar concerns that apply to all entities doing business within their borders.[13]

The Commission should decline the state commissions' invitation to extend, rather than bring a long-delayed end to, the debilitating confusion over the relative state and federal roles over VOIP services. Even if some states offer to confine themselves to minimal regulation, the state regulatory initiatives already concluded or in progress show that such restraint cannot be

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[11] *La. Public Service Comm' v FCC,* 476 U.S. 355, 369 (1986).

[12] *See* Net2Phone Comments at 18-19; Microsoft Comments at 16; Cox Comments at 20-22; Covad Comments at 17-18; Vonage Comments at 21-22; VON Coalition Comments at 22-23.

[13] *See* Arizona Corporation Commission Comments at 2; Public Utilities Commission of Ohio Comments at 5; New York DPS Comments at 3; Minnesota PUC Comments at 11.

ensured unless this Commission expressly defines the types of state regulations that it considers to be preempted as inconsistent with its policies. The Commission should not forego this opportunity to define the common-carrier obligations, including certification, intrastate access charges and mandatory tariffing, that are preempted as applied to VOIP information service providers.

3. Section 230 Is An Independent Source Of Preemption Authority

As Pac-West's comments also point out, section 230(b)(2) of the Communications Act, which declares the "policy of the United States . . . to preserve the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by Federal or State regulation . . . ," provides a wholly independent basis for preemption of any state regulation that imposes new burdens on VOIP service providers.[14] For the most part, the comments in this proceeding do not dispute the intent of Congress, in enacting section 230(b)(2), to prohibit needless regulation in these emerging markets.

The New York Department of Public Service ("NYDPS"), however, argues that section 230(b)(2) cannot be aimed at economic regulation because it appears in the "context" of other subsections that supposedly are intended to protect free speech.[15] Specifically, the NYDPS points to separate provisions of section 230 that relieve online service providers from liability for their efforts to screen obscene or indecent content provided by others.[16] In the New York Department's view, these screening provisions create a "context" showing that "Section 230 is meant to address law and regulation concerning the content of speech transmitted over the

[14] 47 U.S.C. § 230(b)(2).

[15] New York DPS Comments at 7-8.

[16] 47 U.S.C. 230(e)(1).

Internet, rather than states' application of traditional common carrier regulation."[17] NYDPS misinterprets section 230.

First, the fact that various subsections of a statute are codified on the same page does not prove that they address the same concern. Section 230(b)(2) of the Act is substantively complete in itself. It makes no reference to online content or expressive freedom, but simply declares Congress's commitment to "the vibrant and competitive free market . . . for the Internet and other interactive computer *services* . . . ."[18] Given their ordinary meaning, these words refer to unfettered competition among providers of services -- not among ideas carried over these services.

More fundamentally, however, the NYDPS's argument sets up a false dichotomy. Even if we assume that all subsections of section 230 are intended to protect free speech on the Internet, there is no conflict between that goal and avoidance of excessive economic regulation of the services that carry that speech.[19] As the Congress has made clear in other contexts, such as concentration of media ownership, a multiplicity of viewpoints is best encouraged by a multiplicity of outlets for those viewpoints. Excessive restrictions on competition, by means of common carrier regulation or otherwise, discourage that multiplicity of views.

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[17] NYDPS Comments at 7.

[18] 47 U.S.C. § 230(b)(2) (*emphasis added).*

[19] In fact, the NYDPS's overall view of section 230 as protecting "free speech" is ironic. Section 230 was inserted into the Telecommunications Act of 1996 as the Communications Decency Act, which was intended to *restrict* indecent and offensive speech on the Internet. The "good Samaritan" provisions of section 230, to which the NYDPS points as evidence of the Congress's solicitude for free speech, immunize service providers from liability for imposing similar restrictions of their own. The principal provisions of section 230 were rejected by the U.S. Supreme Court as an abridgement -- not a vindication -- of First Amendment rights. *Reno v. American Civil Liberties Union*, 521 U.S. 844 (1997).

The NYDPS's interpretation notwithstanding, the purpose of section 230(b)(2) is plain: to prevent any erosion of the competitive freedom enjoyed by Internet-based and computer-based communications services as a result of misguided state or federal regulation. This provision gives the Commission ample authority to preempt burdensome state regulation of IP-enabled services, and the time to exercise that authority is past due.

B. The Comments Support An Ongoing State Role

As a number of commenters point out, neither the Supremacy Clause nor section 230 is a complete bar to state involvement in the support of VOIP services. In fact, state regulation can play a useful role where such regulation promotes the congressional policy of unfettered competition.

Covad, for example, points out that "there will always be a continuing role for state commissions under the 1996 Telecommunications Act in overseeing the conditions for local competition in their states, including administering the Act's local competition provisions for facilities used to provide Title II broadband services."[20] Similarly, Cox Communications urges that "the states [should] have a central role in dispute resolution and enforcement, even if state jurisdiction does not extend to substantive regulation of . . . IP-enabled services."[21] Pac-West agrees with these comments and urges the Commission to confirm that preemption of restrictive state regulation of VOIP services does not prevent the states from continuing to prevent the anti-competitive conduct of incumbents in their dealings with VOIP service providers.

[20] Covad Comments at 18; *see also* Bend Broadband Comments at 62.

[21] Cox Comments at 14.

III. UNIVERSAL SERVICE OBLIGATIONS SHOULD EXTEND ONLY TO FACILITIES-BASED PROVIDERS OF IP-ENABLED SERVICES

As Pac-West pointed out in its initial comments, the Commission can protect and promote the universal service system without discouraging the deployment of VOIP technology. Specifically, the Commission should continue its present inquiry into more efficient contribution assessment methods, and should fashion a connection-based approach that will ensure equitable support from all providers of network-layer facilities using the PSTN.

As Pac-West's comments also pointed out, however, section 254 does not permit the Commission to "exercise its permissive authority [to require universal service contributions from] . . . non-facilities based providers of IP services."[22] The Commission made clear in its *1998 Report to Congress* that telecommunications services and information services, as defined in the Act, are mutually exclusive categories. Accordingly, a non-facilities based provider of any service, including a VOIP service, that performs a net protocol conversion or otherwise offers "a capability for generating, acquiring, storing, processing, retrieving, utilizing, or making available information via telecommunications" may not be required to contribute directly to universal service funds.

The comments generally do not dispute this statutory limitation. Verizon, however, appears to argue that a VOIP provider that "purchase[s] (and then resell[s]) the use of facilities of another provider" is providing telecommunications "as part of its VOIP service" and may be required to contribute directly to the universal service fund.[23] There is simply no statutory basis for this claim. As the Commission has repeatedly made clear, information service providers that obtain telecommunications inputs from carriers do not contribute, and may not be required to

[22] Pac-West Comments at 16-17.

[23] Verizon Comments at 62.

contribute, directly to the universal service system. Instead, companies that sell telecommunications inputs to information service providers "must include revenues derived from those lines in [their] universal service contribution base," and the information service provides support the system indirectly by paying rates to the carriers that include the carriers' universal service contributions.[24] Verizon has suggested no reason, in the language of the statute or as a matter of policy, why this approach should change now.

IV. THE ILECS CONTINUE TO EXERCISE MARKET POWER AND MUST BE REGULATED ACCORDINGLY

As Pac-West pointed out in its initial comments, "where a provider of VOIP or other IP-enabled service also controls the physical network facilities over which that carrier and its competitors provide such services; and where those facilities are part of a local exchange bottleneck; the common-carrier regulations already in place should be applied to prevent abuse of consumers and competitors."[25] Most non-ILEC commenters took a similar position, pointing out that because ILECs in general, and the RBOCs in particular, enjoy and exercise market power at the network layer, the Commission must retain those regulations that historically have restrained the ILECs' abuse of that power.[26]

The RBOCs, however, have taken this opportunity to deny their market power over network-layer facilities and demand relief from their obligations to treat competitors in a non-discriminatory fashion. Specifically, the Bells insist that because of strong intermodal

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[24] *Federal-State Joint Board on Universal Service*, Report to Congress, 13 FCC Rcd 11501, 11533 (1998).

[25] Pac-West Comments at 28.

[26] AT&T Comments at 48-65; Covad Comments at 8-12, 31; Association for Local Telecommunications Services Comments at 2 ("ALTS Comments"); Bend Broadband Comments at 52-53; Vonage Comments at 9; MCI Comments at 13-19.

competition, they no longer control bottleneck facilities at the network layer and should be relieved of their longstanding obligations under Title II and the *Computer Inquiry* rules.[27]

The RBOCs' demands, if accepted, would lead to the opposite of the regulatory parity needed to ensure the wide deployment of VOIP services. Without the accounting, comparably efficient interconnection and other requirements to which they now are subject under Title II and the *Computer Inquiry* rules, the RBOCs will have no difficulty cross-subsidizing their own VOIP services and impairing their competitors' VOIP services through inferior interconnections.

A. The ILECs Continue to Exercise Market Power

The RBOCs argue that they lack market power in any market relevant to IP-enabled service because of strong intermodal competition "not only among providers of VOIP and other IP-enabled services, but also among providers of broadband services through which customers gain access to all IP-enabled services."[28] In support of their claim of robust competition at the broadband network layer, the RBOCs point to the ability of various platforms, including wireline, cable, satellite, wireless and power line, to carry IP-enabled communications.[29] The RBOCs fail to acknowledge, however, that these various technologies are not equivalent in their capabilities, and that many of these options are simply unavailable to many consumers.

These defects in the RBOCs' account of broadband competition are amply detailed in the record of the *ILEC Broadband* proceeding and the comments in this proceeding. For example,

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[27] Verizon Comments at 5-31; BellSouth Comments at 15-23; SBC Comments at 41-42; *see also* Qwest Comments at 40.

[28] Verizon Comments at 13.

[29] *Id.* at 13.

one authoritative source, Vinton Cerf has identified the following features of the broadband marketplace that the RBOCs consistently fail to acknowledge:[30]

- DSL, the principal wireline platform for IP-enabled services, is provided over local copper loops that are overwhelmingly owned by RBOCs and other ILECs.
- The residential broadband market is "at best a duopoly," served only by cable and DSL platforms. In many markets, residential broadband is unavailable or offered by only one provider, because customers are too far from the ILEC central office to use DSL and/or are served by cable TV companies that do not yet offer cable modem service.
- Cable systems generally do not serve businesses, most of which still must rely on ILEC facilities for their broadband service.
- Because of cost and technical limitations, satellite and terrestrial wireless alternatives to ILEC and cable broadband platforms will serve only niche markets for the foreseeable future.[31]

In fact, the reality of the marketplace is that without intramodal wireline competition based upon nondiscriminatory access to the ILECs' local networks, business broadband customers will face a monopoly market and residential broadband consumers will face, at best, a duopoly market.[32]

B. Computer Inquiry and Title II Regulation Still Are Needed

Based upon their claim to lack market power, SBC, Verizon, and BellSouth argue that RBOC providers of IP-enabled services should not be required to comply with the open network

[30] Letter from Vinton G. Cerf, Senior Vice President, WorldCom, to The Honorable Donald Evans, Secretary, U.S. Department of Commerce and The Honorable Michael Powell, Chairman, FCC (May 20, 2002).

[31] Mr. Cerf's report does not discuss broadband-over-powerline ("BPL") service, which the RBOCs list among the five types of intermodal competition at the broadband network layer. However, power companies generally are not investing in BPL and have no present plans to do so. *See* Dinesh Kumar, *Utilities Still Wary of Investing in Broadband Over Power Line*, Comm. Daily, June 4, 2004.

[32] Verizon, apparently unconcerned about the anticompetitive impact of duopoly, points out that "even if all CLECs were driven from the broadband market, mass market consumers will still have the benefits of competition between cable providers and ILECs." Verizon Comments at 14.

architecture ("ONA"), comparably efficient interconnection ("CEI"), unbundling and tariffing obligations of the *Computer Inquiry* rules,[33] and should be declared nondominant in the market for IP-enabled services.[34] Nondominant status would relieve the RBOCs of any obligation under price-cap regulation and would eliminate various cost-support and accounting requirements.[35] Verizon also requests that the Commission forbear from applying Title II requirements to the incumbents' IP-enabled services.[36]

All of these suggestions should be rejected. Although current regulations applicable to incumbent broadband services could be streamlined and simplified without detriment to consumers, the essential principle upon which Title II and *Computer Inquiry* regulation of those services is based -- the need to prevent abuse of control over the network layer to harm competition at the application layer -- remains as necessary as ever. Accordingly, regulations that are essential to that policy must be retained.

Notably, the Commission must retain the *Computer Inquiry* unbundling requirements for broadband services, which have helped to ensure an open interface between network-layer facilities and the upper layers at which Internet-based competition has flourished. Similarly, the Commission should maintain certain Title II requirements, including the requirement that incumbents tariff their broadband services and price-cap regulation of incumbents' rates.

The Commission should continue its inquiry, undertaken in the pending *Incumbent LEC Broadband* docket, concerning the appropriate regulatory regime for ILEC facilities and services

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[33] Verizon Comments at 21-22. The Commission has often pointed out, however, that duopoly markets are not truly competitive. *See* 16 FCC Rcd 6547, 6617 (2001); 15 FCC Rcd 9219, 9235 (1999).

[34] Verizon Comments at 25.

[35] *Id.* at 28.

[36] *Id.* at 29.

provided at the network layer. It would be premature, however, to declare the ILECs nondominant in any local market, or to relieve the ILECs of any obligations to which they are subject under the *Computer Inquiry* rules or section 251 of the Telecommunications Act of 1996.

V. THE COMMISSION SHOULD REJECT THE DEMANDS FOR EXTENSION OF THE ACCESS CHARGE SYSTEM TO IP-ENABLED SERVICES

As Pac-West pointed out in its comments, the Commission correctly has stated that all users of the PSTN should contribute to the support of that network. The present access charge system, however, does not accurately reflect the costs caused by users of the PSTN and should be reformed, or replaced with a unified system of cost-based intercarrier compensation, rather than extended in its present form to emerging markets and technologies.

A number of commenters nonetheless argue that whenever a customer uses the public switched telephone network to originate or terminate a VOIP call, the VOIP service provider must pay access charges to any LEC that makes its local network available for that purpose. These arguments tend to be based on two premises: first, that the Commission's rules require payment of access charges for the origination and termination of telecommunications; second, that the VOIP service providers are not fairly compensating LECs for the use of their networks unless these VOIP providers pay access charges.

The Commission should reject both arguments. Notably, the present access charge rules apply only to telecommunications services and do not mandate imposition of access charges on VOIP services that properly are classified as information services.[37] The claim that only the inflated, subsidy-ridden access charge system permits recovery of local network costs is inherently implausible and cannot be a sound basis for extension of that system to new and

[37] Even where the access charge rules presumptively apply to a variant of VOIP service, the Commission may forbear to apply those rules.

innovative technologies like VOIP. Instead, the Commission should continue its efforts to develop a fair, cost-based system of inter-carrier compensation applicable to all services and service providers.

VI. CLECS THAT PROVIDE VOIP SERVICES MUST CONTINUE TO ENJOY INTERCONNECTION RIGHTS AND FULL ACCESS TO NANP RESOURCES

Robust competition among VOIP and circuit-switched voice service providers requires that all competing entities have access to the inputs they need in order to provide services. Accordingly, as a number of commenters point out, VOIP service providers must have access to ILEC interconnection and North American Numbering Plan ("NANP") resources on the same basis as their circuit-switched competitors.[38] It would be an especially perverse result if competitive local exchange carriers ("CLECs"), which now have access, interconnection and numbering resources rights for the provision of their telecommunications services, should lose those rights simply because they choose to offer more efficient VOIP services that fit within the statutory definition of information services.[39]

VII. CONCLUSION

Pac-West fully supports this Commission's decision to clarify the regulatory framework for IP-enabled services, including voice services provided by means of the Internet protocol. The record in this proceeding amply supports the Commission's deregulatory approach to these

[38] *See, e.g.,* SBC Comments at 87 (noting that "the Commission's original rules were never intended to restrict full access to numbering resources by service providers who are willing and able to use NANP resources to serve customers"); Cox Comments at 25 (pointing out that VOIP providers should have access to interconnection and unbundled network elements, either under section 251 of the Act or the general authority of the Commission to order interconnection under section 201).

[39] *See* Cbeyond/Globalcom/Mpower Comments at 6.

services, and Pac-West urges the Commission to assert its jurisdiction to the full extent required to carry out this pro-competitive program.

Respectfully submitted,

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